


FORM OF ORDER SHEET

Court of _____

Case No.- 1614/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/11/2022	<p>The appeal of Mr. Tahir Khan presented today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

A. no. 1614/2022
Tahir khan

VERSUS

LRH & Others

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Dated: 08/11/2022

2
Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,

Saghir iqbal Gulbela,
Advocate, High Court
Peshawar.

&
Hamza Durrani
Advocate, Peshawar.

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA CIVIL
SERVICES TRIBUNAL, PESHAWAR**

In Service Appeal No. 1614 /2022

Tahir Khan S/o Saeed Khan, Dhobi (Civil Servant) at lady Reading hospital, MTI, Peshawar

.....Appellant

VERSUS

1. Secretary, Health Department, Govt. of Khyber Pakhtunkhwa, at Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director Hospital Director LRH.
4. Director Finance LRH MTI, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL 1974 AGAINST THE IMPUGNED OFFICE ORDER NO. 22681-89/HR-IV DATED: 12-09-2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN TURNDOWN AGAINST THE IMPUGNED RELIEVED ORDER NO. 22681-89/HR-IV-DATED: 12-09-2022, OF THE 'OFFICE OF THE HOSPITAL DIRECTOR, LADY READING HOSPITAL MTI, PESHAWAR, WHEREBY THE APPELLANT HAS BEEN RELIEVED FROM LADY READING HOSPITAL MTI, PESHAWAR TO THE OFFICE OF DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR, IN A CLASSICAL, CURSORY AND WHIMSICAL MANNER. HENCE THE INSTANT APPEAL.

Respectfully Sheweth,

1. **That** the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable family of a locality.
2. That after going through the mandatorily required criteria, the Appellant got onto the rolls of the Respondent Department years back and since then the appellant working and performing his duties in LRH.

(2)

3. That since induction into service and getting onto the rolls of this extremely humane and prestigious Department, the Appellant has remained the most pragmatic, devoted, and dutiful fellow, who never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to the appellant.
4. That being highly professional and pragmatic towards the responsibilities bestowed upon the shoulders of the Appellant and because of his whetted professional skills, there have never been any sort of soot or soot-age upon his long career, which fact is reflected from Appellant Service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.
5. That it was in this backdrop that while the Appellant was serving his duties on his post of Dish Washer (Civil Servant)', in the Lady Reading Hospital MTI, Peshawar that the Respondent No.04 relieved from LRH MTI and his services are hereby placed at the disposal of Director General Health Services KPK,PESHAWAR, vide impugned Transfer Order No. 22681-89/HR-IV-Dated: 12-09-2022, OF THE 'Office of The Hospital Director, Lady Reading Hospital MTI, Peshawar. **(Copy of impugned Transfer Order No. 22681-89/HR-IV Dated: 12-09-2022 as annexure "A")**
6. That feeling aggrieved the Appellant moved departmental application for setting aside **Impugned Relieved Order No. 22681-89/HR-IV Dated: 12-09-2022** to Respondents, but his prayer was turn down, which is not only illegal and unlawful but is also against the right of the Appellant recognized, protected, and guaranteed by the law of land. **(Copy of departmental appeal dated 14-09-2022 & Impugned regretted Order as Annexure "B & C")**

7. That it is also important to mentioned here that initially the appellant approached before Hon'ble MTI appellant Tribunal but after a legal discussion, the instant appeal disposed with the observations that the appellant approach to proper forum for the redressal of their grievance. **(Copy of Hon'ble MTI Appellate Tribunal Order dated 30-10-2022 is annexed as annexure "D")**
8. That feeling aggrieved and having no other remedy available elsewhere, the Appellant approaches this Hon'ble Tribunal for setting aside 'the **impugned Transfer Order No. 22681-89/HR-IV Dated: 12-09-2022** and Impugned regretted order upon the following grounds, inter-alia.

GROUND:

- A. That the impugned Transfer & Posting Order is wrong, illegal, unwarranted, and hence not tenable in the eyes of law.
- B. That the Appellant has already been a post in respondent department and he was working from year 1998 but the respondents malafidely illegally and unlawfully transferred the Appellant from lady reading hospital Peshawar, to director general health services Peshawar which is not warranted under the law.
- C. That the impugned Transfer & Posting is thoroughly in derogation to the principles as laid down and enumerated in the Transfer & Posting Policy.
- D. That the Appellant has been transferred without any rim or reason. So if the appellant has been transfer without any reason and DGHS has categorically replied that there is no post with him where against the appellant could be posted then if appellant and his services are not required by LRH then it is not only the appellant who has to be transferred and relived from LRH, then LRH also surrender and transfer his post as well to the DGHS.
- E. That the impugned transfer order is also against the normal tenure Policy, which under the law is not allowed.
- F. That by transferring the Appellant, the Petitioner has virtually been penalized for no wrong done and have been simply

(4)

kicked out from Lady Reading Hospital to Director General Health Services Khyber Pakhtunkhwa, Peshawar.

- G. That from every angle, the impugned Transfer & Posting Order is wrong, illegal, unlawful and is liable to be set-aside.
- H. That any other ground not raised here may graciously be allowed at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned Relieved Order No. 22681-89/HR-IV Dated: 12-09-2022, of Hospital Director and Impugned Order of the office Director Human Resources, Lady Reading Hospital MTI, Peshawar' may kindly be set-aside, and by doing so the appellant may graciously be allowed to perform his duties at LRH MTI, Peshawar.

Any other relief not specifically asked for may also graciously be extended in favor of the Appellant in the circumstances of the case.

Dated: 08/11/2022.

Appellant

Through

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan,

Saghir iqbal Gulbela
Advocate, High Court
Peshawar.

&
Hamza Durrani
Advocate, Peshawar.

NOTE:

No such like appeal for the same appellant , upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate

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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

In S.A No-_____/2022

Tahir Khan

VERSUS

Govt of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, Tahir Khan S/o Said Khan (Dhobi) R/o Charkhana Road, P/o GPO, Mohalla Gulabad #1 Chamba Pir Road Tehsil & District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant Service Appeal is correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

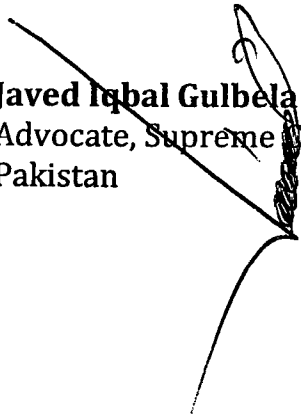
طاہر خان

DEPONENT

CNIC:17301-8309014-9

CELL: 0315-9980016

Identified by:


Javed Iqbal Gulbela
Advocate, Supreme Court of
Pakistan

(6)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Tahir khan

VERSUS

LRH & Others

C.M No # _____/2022

In

S.A _____/2022

**APPLICATION FOR SUSPENSION OF THE IMPUGNED OFFICE
ORDER NO.22670-78/HR-IV DATED 12-09-2022**

RESPECTFULLY SHEWETH,

1. That the applicant/appellant is filling the accompanying appeal, the contents of which may graciously be considered as integral part & parcel of the instant service appeal.
2. That prima facie case exists in favor of the appellant.
3. That if the impugned notification as mentioned above is not suspended the appellant will suffer irreparable loss.
4. That balance of convenience is also lies in favor of the appellant and his quite sanguine of his success.
5. That in the given circumstances the suspension of operation of the impugned notifications are indispensable.

It is therefore, most humbly prayed that on acceptance of the instant application, operation of the impugned notification for as mentioned above may kindly be suspended till the final disposal of the accompanying appeal.

Any other relief not specifically asked for may also graciously be extended in favor of the applicant in the circumstances of the case.

Dated : 8/11/2022

Appellant
Through
Javed Iqbal Gulbela
&
Hamza Durrani

Advocate

(7)

Ann "A"



LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION, PESHAWAR

ID: 7-0383

OFFICE ORDER

Mr. Tahir Khan S/o Saeed Khan, Dhobi (Civil Servent) is hereby relieved from Lady Reading Hospital MTI and his services are hereby placed at the disposal of Director General Health Services, Khyber Pakhtunkhwa, Peshawar with immediate effect for further posting.

He is hereby directed to submit clearance certificate from all concerned sections of LRH.

Sd/-xxxx

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

No. 22681-89 /HR-IV

Dated. 12/1/22 /2022

Copy forwarded to:

1. Director General Health Services, Khyber Pukhtunkhwa Peshawar
2. Director Human Resources LRH-MTI
3. Director Finance LRH-MTI
4. Manager Housekeeping, LRH-MTI
5. Provost LRH-MTI
6. Dealing officer
7. HRMIS
8. Incharge Recruitment Cell, LRH-MTI
9. Mr. Tahir Khan S/o Saeed Khan, Dhobi, LRH-MTI

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Hospital Director

Lady Reading Hospital MTI,
Peshawar.

محترم جناب HD صاحب آئی ایم ایڈمنسٹریشن ہسپتال کے لیے درخواست برائے بلا جواز غیر قانونی ٹرانسفر اور رٹ نمبر 22681-89/HR-17 والیں کیا جائے

جناب عالی ماہ

نوڈیٹڈ گزٹ نوٹس کی جاتی ہے کہ سائل کو مورخہ 13 ستمبر 2022 کو عوامی سہولت ڈسٹرکٹ آڈر نمبر 22681-89/HR-17 وصول ہوا ہے۔ جس میں ڈائریکٹر میڈیکل سائنس حاضری رپورٹس اخذ کی گئی ہیں۔ سائل 1998 سے R.H میں بحالی ہوئے۔ جو کہ اپنی ڈیوٹی ادا کر رہے ہیں۔

لہذا سائل کی مدد کے لیے درخواست عرض کرتا ہوں کہ سائل کا بلا جواز غیر قانونی ٹرانسفر اور عوامی سہولت ڈسٹرکٹ آڈر نمبر (22681-89/HR-17) واپس لے کر سائل کو اس کا

14/9/2022

موقع دیں۔

الطرح

العامر

عین نوٹس ہوئی

آئی ایم ایڈمنسٹریشن ہسپتال کے لیے درخواست برائے بلا جواز غیر قانونی ٹرانسفر اور رٹ نمبر 22681-89/HR-17 والیں کیا جائے

طاہر خان

کابج برائے اطلاع

جناب ڈائریکٹر میڈیکل سائنس حاضری رپورٹس

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

ڈائریکٹر میڈیکل سائنس
11420
14.9.2022

Annex "C" (9)



LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION, PESHAWAR

Annex "C"

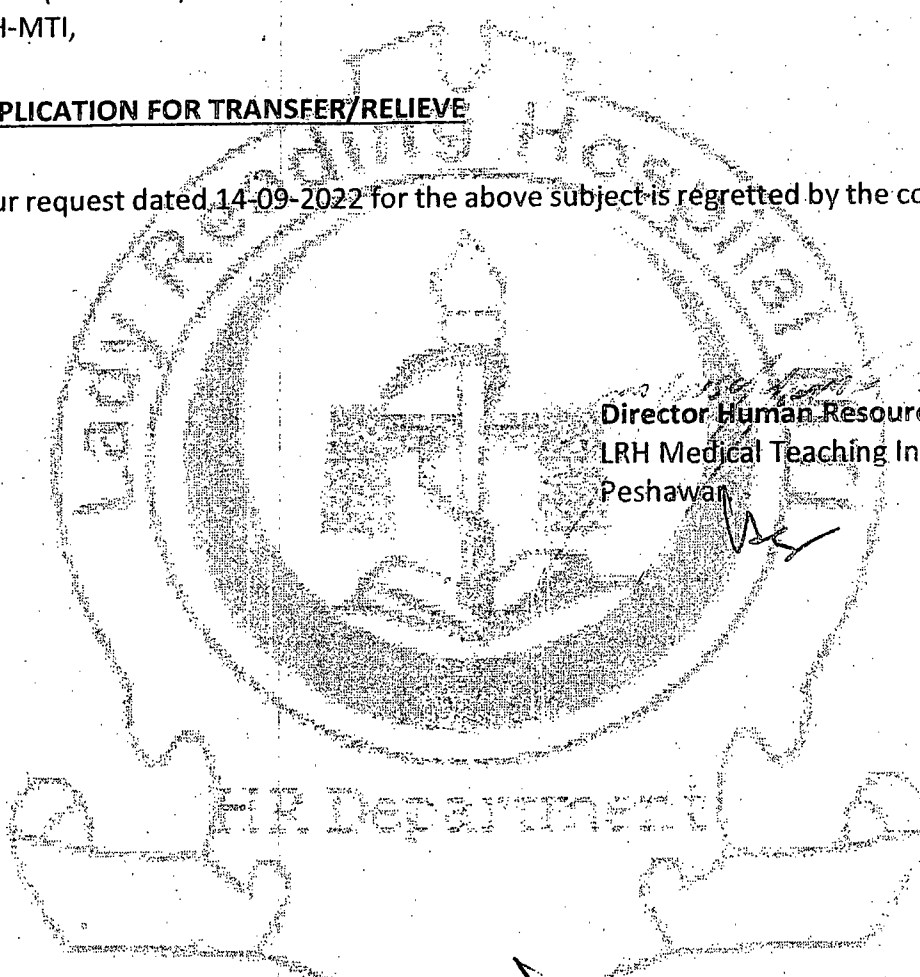
No. _____/HR-IV
Dated. ____/____/2022

To

Mr. Tahir Khan,
Dhobi (ID 7-0383)
LRH-MTI,

Subject: APPLICATION FOR TRANSFER/RELIEVE

Your request dated 14-09-2022 for the above subject is regretted by the competent authority.



Director Human Resources
LRH Medical Teaching Institution,
Peshawar

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

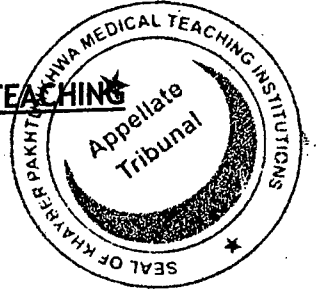
JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Human Resources Department, LRH- MTI, Peshawar
Tel. 091-9212216 Exch. 9211430- 34 Ext. 1200, 1201, 1221

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Annex 4 D

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA MEDICAL TEACHING
INSTITUTION TRIBUNAL, PESHAWAR**



In S.A. 103 /2022

Tahir Khan S/o Saeed Khan (dhobi) at lady Reading hospital, MTI,
Peshawar

.....Appellant

Versus

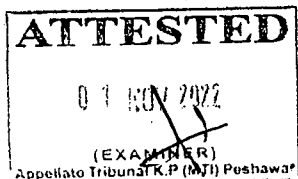
1. Secretary, Health Department govt of kpk at Civil Secretariat, Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
3. Lady Reading Hospital MTI, Peshawar Through Hospital Director.
4. Hospital Director LRH.
5. Director Finance LRH MTI, Peshawar.

.....Respondents

Appeal Under Section 16-A of 'The Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015', against the impugned Office Order No. 25553/HR-IV Dated: 10-10-2022, whereby the departmental appeal of the appellant has been turndown against the impugned relieved Order No. 22681-89/HR-IV-Dated: 14-09-2022, of the 'Office of The Hospital Director, Lady Reading Hospital MTI, Peshawar, Whereby the Appellant has been relieved from Lady Reading Hospital MTI, Peshawar to the office of Director General Health Services Khyber Pakhtunkhwa Peshawar, in a classical, cursory and whimsical manner. Hence the instant appeal.

Respectfully Sheweth,

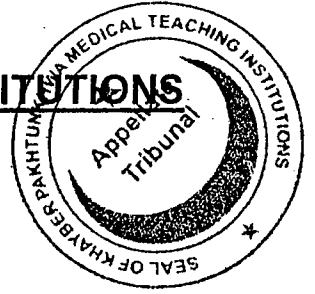
1. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and hails from a respectable family of District Peshawar.
2. That after going through the mandatorily required criteria, the Appellant got onto the rolls of the Respondent Department years back in 1998 and since then the appellant working and performing his duties in LRH.



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KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTIONS

APPELLATE TRIBUNALORDER SHEET

<u>Date of hearing</u>	Proceedings of the Tribunal
31.10.2022	<p data-bbox="414 498 1335 548"><u>MTI A # 102/2022 with C.M. No.188/2022</u></p> <p data-bbox="414 573 1335 623">Present: Mr.Hamza Durrani, advocate, for the appellant.</p> <p data-bbox="414 722 1335 1021"><u>NISAR HUSSAIN KHAN, CHAIRMAN:-</u> Our this single order, shall dispose of three identical appeals, being Nos. 102/2022, 103/2022 and 105/2022, as the law points as well as the facts involved in all the appeals, are common.</p> <p data-bbox="414 1096 1335 1619">2. Learned counsel for the appellants contended that though appellants have been relieved from the MTI LRH, Peshawar, being civil servants, to report to their parent department but the Director General, Health Service, KP, Peshawar, parent department, is not accepting their arrival report on the ground that they have no such posts to adjust them.</p> <p data-bbox="414 1694 1335 2217">3, After thorough discussion on the legal questions, learned counsel for the appellants submitted at the bar that the appellants would submit arrival report in written form before the parent department and in case of denial, they would approach the proper forum for the redressal of their grievance and in view of this legal position, he does not want to press these appeals.</p>

ATTESTED

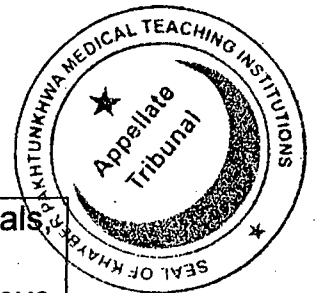
07 NOV 2022

(EXAMINER)

Appellate Tribunal, K.P. (MTI) Peshawar

(Handwritten mark)

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4. In the circumstances, all the three appeals mentioned above, stand disposed of with the above observations.

CHAIRMAN
MEMBER

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ATTESTED
01 NOV 2022
(EXAMINER)
Appellate Tribunal K.P (MTI) Peshawar

Date of Presentation of Application 1 Nov 2022
 No of Pages 4
 Copying fee 4x20
 Total 80
 Date of Presentation of Copy 1 Nov 2022
 Date of Delivery of Copy 1 Nov 2022
 Received by [Signature]

وکالت نامہ

بعدالت: جناب Service Tribunal سہیل اختر خان

محترم خان بنام حکومت و مین

منجانب مہبلانٹ دعویٰ سہیل اہل

تاریخ 10-11-2022

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

برقلم گیسٹ ہاؤس کیلئے جاوید اقبال گل بیلہ ایڈوکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کروں گا، اگر پیشی پر من مظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادا نیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔

مورخہ 10-11-2022 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted and

Signature and

سہیل اختر خان وار سید خان